



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF  
CHIEF COUNSEL

October 7, 2002

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CC:PA:APJP:1: [REDACTED]  
GENIN-141628-02

[REDACTED]

Re: Claim for Refund of Taxes

Dear [REDACTED]:

This responds to your letter dated July 8, 2002, wherein you ask whether you are entitled to file a claim for refund to recover those taxes paid by yourself on behalf of your deceased father.

In your letter you state that you prepared and filed a Form 1040, U.S. Individual Income Tax Return, on behalf of your deceased father, and that his return showed an outstanding tax liability. You further state that you paid such amount as your father's sole beneficiary. Finally, you indicate that you believe that you were not required to pay your deceased father's tax liability, and therefore request a refund of the amount paid.

Section 6402(a) of the Internal Revenue Code ("Code") states: "In the case of any overpayment, the Secretary, within the applicable period of limitations, may credit the amount of such overpayment, including any interest allowed thereon, against any liability in respect of any internal revenue tax on the part of the person who made the overpayment and shall, subject to subsections (c),(d), and (e) refund any balance to such person."

Section 301.6402-1 of the Regulations on Procedure and Administration ("Regulations") states: "The Commissioner, within the applicable period of limitations, may credit any overpayment of tax, including interest thereon, against any outstanding liability for any tax (or for any interest, additional amount, addition to the tax, or assessable penalty) owed by the person making the overpayment and the balance, if any, shall be refunded, subject to sections 6402(c) and (d) and the regulations thereunder, to the person by the Commissioner."

Publication 556, Examinations of Returns, Appeals Rights, and Claims for Refund offers guidance about claims for refund. According to Publication 556, a taxpayer can claim a credit or refund of an overpayment by mailing Form 1040X to the Service Center where the original return was filed. Section 6511 of the Code requires a

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taxpayer to file a claim for refund for overpaid taxes within 3 years from the time that the return was filed or 2 years from the time the tax was paid, whichever period is later.

This letter is a general information letter only and intended only to provide you with general guidance for determining how to comply with applicable law. It describes well established interpretations or principles of tax law without applying them to a specific set of facts. It is advisory only and has no binding effect. If you would like a ruling based on your specific facts, please submit a request pursuant to Rev. Proc 2002-1, 2002-1 IRB 1.

If you have any questions, please contact [REDACTED] at [REDACTED].

Sincerely,

Pamela Wilson Fuller  
Senior Technician Reviewer  
Administrative Provisions & Judicial  
Practice, Branch 1

Attachment: Form 1040X, Amended U.S. Individual Income Tax Return